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10
11 Attorneys for Plaintiff JENS ERIK SORENSEN,
12 as Trustee of SORENSEN RESEARCH AND
13 DEVELOPMENT TRUST

14
15 UNITED STATES DISTRICT COURT
16 FOR THE SOUTHERN DISTRICT OF CALIFORNIA
17

18 JENS ERIK SORENSEN, as Trustee of) Case No. 08cv308 BTM CAB
19 SORENSEN RESEARCH AND)
20 DEVELOPMENT TRUST,)
21 Plaintiff)
22 v.)
23 LOGITECH INC., a California)
24 Corporation; and DOES 1 – 100,)
25 Defendants.)
26 and related counterclaims.)
27)
28)

) **DECLARATION OF MELODY A.**
) **KRAMER IN SUPPORT OF**
) **MOTION FOR EXCEPTION TO**
) **STAY TO PRESERVE EVIDENCE**
)
) Date: August 8, 2008
) Time: 11:00 a.m.
) Courtroom 15 – 5th Floor
) The Hon. Barry T. Moskowitz
)
) *Oral Argument Has Been Respectfully*
) *Requested by Plaintiff*
)
)

1 I, MELODY A. KRAMER, declare:

2 1. I am not a party to the present action. I am over the age of eighteen. I
3 have personal knowledge of the facts contained within the following paragraphs, and
4 could and would competently testify thereto if called as a witness in a court of law.

5 2. At all times relevant herein I have been an attorney for Sorensen
6 Research and Development Trust (“SRDT”), Plaintiff in the above-captioned matter.

7 3. This Declaration is being submitted in conjunction with Plaintiff’s
8 Motion for Exception to Stay for Preservation of Evidence.

9 4. I have requested an exception for stay for preservation of the evidence
10 outlined in the accompanying motion by letters to Defendants’ counsel, but
11 Defendants have failed to agree. Exhibit A attached hereto is a true and correct copy
12 of that correspondence.

13
14 SWORN TO under penalty of perjury of the laws of the State of California
15 and the United States, this 26th day of June, 2008.

16
17 /s/ Melody A. Kramer
18 Melody A. Kramer, Esq.
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EXHIBIT A

Kramer Law Office, Inc.

9930 Mesa Rim Rd., Ste. 1600
San Diego, California 92121
Phone 858/362-3150
Fax 858/824-9073

Melody A. Kramer, Esq.

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VIA FACSIMILE 650-614-7401
AND FEDERAL EXPRESS

May 6, 2008

Richard S. Swope
ORRICK, HERRINGTON & SUTCLIFFE LLP
1000 Marsh Road
Menlo Park, CA 94025

RE: Sorensen Research & Development Trust v. Logitech, Inc, et al.
Case No. 08cv308 BTM CAB
Request for agreement to conduct limited discovery during stay for the purpose of preserving evidence

Dear Mr. Swope:

In accordance with the Order for stay by Judge Moskowitz, we are hereby requesting the Defendant's agreement to preserve certain items of evidence to ensure that they will not be lost during the time that this case is being stayed. If we are unable to reach an agreement, we will be asking the Court for an order to produce this evidence.

1. All prototype and production molds used in the production of the Accused Products that are currently in the possession or control of either Defendants or non-parties; and
2. All design and technical Documents for the Accused Product that are in the possession or control of either Defendants or non-parties.
3. Initial disclosures pursuant to Rule 26(a)(1), specifically including the identity and location of all manufacturers, suppliers, and importers for the products at issue.

The products at issue at this point include the following identified products, and any other products made with the same molds or similar manufacturing process:

Logitech Vx Revolution Cordless Laser Mouse For Notebook
Logitech Lx7 Cordless Optical Mouse

Logitech Lx3 Optical Mouse
Logitech Cordless Optical Mouse

It is our understanding that manufacturing of the Accused Products may have been done in China by unidentified company or companies, not by the Defendants. As such, and because we are also aware of often complicated, sometimes international, chain of company ownership, there is simply no assurance that this necessary technical information will be available to my client once the stay is lifted. Furthermore, as we already pointed out to you, failure to identify manufacturers, suppliers, and importers will make it impossible for us to assure that all evidence is preserved.

Please advise us no later than May 27th if your client is willing to stipulate to this limited discovery during the stay, otherwise we will file a motion with the Court.

Additionally, please advise us by May 27th if Defendants have any categories of evidence that they want to ensure are preserved. Although we are cognizant of our general obligation to preserve evidence, we are willing to work with you to ensure that any particular categories of evidence that you think may be necessary when stay is lifted, are adequately preserved.

Thank you for your attention to this matter.

Sincerely,

Melody A. Kramer

Kramer Law Office, Inc.

9930 Mesa Rim Rd., Ste. 1600
San Diego, California 92121
Phone 858/362-3150
Fax 858/824-9073

Melody A. Kramer, Esq.

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VIA FACSIMILE 650-614-7401

June 4, 2008

Richard S. Swope
ORRICK, HERRINGTON & SUTCLIFFE LLP
1000 Marsh Road
Menlo Park, CA 94025

RE: Sorensen Research & Development Trust v. Logitech, Inc, et al.
Case No. 08cv308 BTM CAB
Request for agreement to conduct limited discovery during stay for the purpose of preserving evidence

Dear Mr. Swope:

I have not received any response to my letter dated May 6th requesting an agreement for preservation of certain items of evidence pending lift of stay of this case. Therefore, I am left to assume that your client is unwilling to cooperate with us and we will have no option but to make a request directly to the Court pursuant to the Order for Stay.

Be advised that yesterday Judge Moskowitz granted our request for preservation of evidence in circumstances similar to those in this case, therefore we are confident that we will prevail in a request for the limited discovery we have requested from you.

If your client would like to avoid the necessity of motion practice on this issue, please let me know immediately. Otherwise we will be filing a motion shortly.

Sincerely,

Melody A. Kramer

enclosure

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Melody A. Kramer, Esq.
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VIA FACSIMILE 650-614-7401

June 24, 2008

Richard S. Swope
ORRICK, HERRINGTON & SUTCLIFFE LLP
1000 Marsh Road
Menlo Park, CA 94025

RE: Sorensen Research & Development Trust v. Logitech, Inc, et al.

Case No. 08cv308 BTM CAB

Request for agreement to conduct limited discovery during stay for the purpose of preserving evidence

Dear Mr. Swope:

I have not received any response to my second letter regarding preservation of evidence dated June 4th requesting an agreement for preservation of certain items of evidence pending lift of stay of this case. Therefore, I am left to assume that your client is unwilling to cooperate with us and we will have no option but to make a request directly to the Court pursuant to the Order for Stay.

Be advised that on June 3, 2008 Judge Moskowitz granted our request for preservation of evidence in circumstances similar to those in this case, therefore we are confident that we will prevail in a request for the limited discovery we have requested from you.

Enclosed please find a copy of the transcript in the referenced Black & Decker hearing and resulting order wherein Judge Moskowitz granted my client an exception to stay to conduct certain items of discovery, including conducting a plant inspection. As you can see, there is every reason to believe that Judge Moskowitz would also grant a motion allowing us to conduct the same type of discovery of Logitech.

If your client would like to avoid the necessity of motion practice on this issue, please reconsider your position and let me know immediately. Otherwise we will be filing a motion shortly.

Sincerely,

Melody A. Kramer

enclosure



June 25, 2008

Richard S. Swope
(650) 614-7413
rswope@orrick.com

VIA FACSIMILE AND MAIL

Melody A. Kramer
Kramer Law Office, Inc.
9930 Mesa Rim Road, Ste. 1600
San Diego, CA 92121

Re: Sorensen Research & Development Trust v. Logitech, Inc., Case No. 08cv308 BTM
CAB: Preservation of Documents

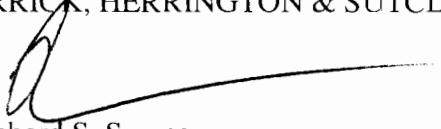
Dear Ms. Kramer:

We have received and reviewed your letter of May 6, 2008, requesting an agreement to preserve documents and to conduct limited discovery. Logitech will, of course, preserve relevant evidence within its custody and control consistent with its legal duties. Because the case is stayed, there is no reason for Logitech to provide Rule 26(a) disclosures, and Logitech cannot do anything with respect to unspecified "non parties" which may or may not be outside the United States.

We hope that this allays any concerns you might have concerning preservation of evidence in this matter.

Sincerely,

ORRICK, HERRINGTON & SUTCLIFFE LLP



Richard S. Swope